

#### REMARKS

Applicant files these remarks in response to the final Office Action of September 26, 2007. Applicant concurrently files a Request for Continued Examination (RCE) and a petition for a three-month extension of time, all with the appropriate fees.

As a preliminary matter, the drawings were objected to in the Office Action because reference number 15 allegedly was not included in the written description, and because reference numbers 12 and 13 were not included in the drawings. In response, Applicant first notes that reference number 15 is found in paragraph 20 of the written description. Second, Applicant has reviewed the current version of the Specification and has been unable to find the cited reference number 12 in paragraphs 19, 21 and 29 and reference number 13 in paragraph 19, as alleged in the Office Action. A copy of the Specification as currently pending is included in the Appendix hereto for convenient reference. Accordingly, Applicant respectfully request clarification of the Examiner's object to the drawings and specifications in view of this. cancels herein reference numbers 12 and 13 from the written description.

Turning to the substantive rejections, claims 8-11, 13-21, and 24-27 were rejected under §102(b) as being anticipated by Honda U.S. Patent No. 6,021,393 ("Honda"). Regarding claims 12 and 22-23, these claims were rejected under §103(a) as being unpatentable over Honda in view of Eberhardt U.S. patent No. 5,832,488 ("Eberhardt").

In response to these claim rejections, Applicant amends the independent claims and respectfully requests reconsideration of claims 8-27 in view of the foregoing amendments and following remarks. Applicant submits that no new matter is added by any of the amendments made herein.

In particular, Applicant responds that a subtlety of the presently claimed invention has not been appreciated. In this respect, Applicant generally submits that the invention of the present claims is drawn to *a portable memory device that, in combination with software carried on the device, is designed to access personal medical information carried on the device using any general computer or other common electronic device*. Consequently, the independent claims have been amended in order to further emphasize and draw out this subtlety.

Turning specifically to claim 8, this independent claim recites that the “portable, hand carried apparatus” includes “a program...for...storing medical records...updating the medical records” and “providing access to the medical records in the secure database in the machine-readable memory of the portable, hand carried apparatus.” Applicant has amended claim 8 to further recite that this program included in the portable, hand carried apparatus also “provides a graphical user interface for selectively recording, updating, and accessing a person’s medical history by a user of the electronic device.”

As a result of the program being included in the portable, hand carried apparatus, a person’s medical history can be recorded, updated, and accessed without the need for special software preinstalled on an electronic device, and without the need for access to a website or to a database of medical records that is external to the portable, hand carried apparatus.

In reviewing *Honda*, Applicant finds no disclosure of any such program that is included in *Honda*’s portable memory card. Nor does the Examiner appear to cite any passage of *Honda* for such disclosure in the Office Action.

Applicant acknowledges that *Honda* discloses a “medical information management system” that includes “a portable memory card carried by a patient to store the patient’s personal medical information.” Such disclosure does not disclose or suggest, however, that the portable memory card further include the program as recited in independent claim 8.

Indeed, Applicant submits that *Honda* at col. 5, lines 21-48 suggests just the opposite, i.e., that the hospital actually have beforehand the necessary hardware and software for managing the medical records that are carried on the portable memory card, and that only the records themselves are carried on the portable memory card.

Accordingly, Applicant submits that independent claim 8 patentably defines over the cited references. Additionally, Applicant submits that claims 24 and 26 patentably defines over the cited references for the same reasoning as claim 8.

#### *The Dependent Claims*

Applicant submits that each of the dependent claims is allowable as depending from an allowable independent claim. Applicant nevertheless respectfully submits that each of the dependent claims is further allowable based on the additional recitation found in such

dependent claim, and Applicant requests consideration thereof as necessary. Applicant further does not acquiesce in the rejections of these dependent claims, but in the interests of brevity, Applicant does not *per se* address each such rejection herein.

*Closing*

In order to facilitate prosecution, it is respectfully requested that the Examiner contact the undersigned if any further action is deemed necessary by the Examiner in order to gain allowance of the present application, and if such further action may be accomplished through an Examiner's amendment or otherwise.

Respectfully submitted,  
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## APPENDIX

### *Current Version of the Specification*

#### PORTABLE MEDICAL RECORDS DEVICE

##### Background of the Invention

[0001] This invention relates to a secure portable device for storing and accessing patient records.

[0002] Accurate, accessible and shareable health information is a well accepted prerequisite of good healthcare. Patient safety, public safety, continuity of patient care, healthcare economics, clinical research and outcomes analysis are adversely affected by the reduced quality of health information available. The prior art has attempted to solve these problems in the healthcare field in not entirely satisfactory ways. The following patents are illustrative of the prior art attempts at medical record storage.

[0003] Patent 5,832,488 to Eberhardt discloses a computer system and method for programming data of an individual's medical histories on a storage device. The programs are designed to record information on smart cards such as patient identifier and a running medical history plus pharmaceutical information. Patent 6,467,690 to Reeves discloses an electronic storage memory card of a particular type which is capable of having digital binary data stored within its surface and which is easily carried on a person in a wallet or purse.

[0004] Patent 5,731,629 to Woodward discloses a personal data storage device for storing information such as medical records and a system for storing and reading such information from the storage device.

[0005] Also of some interest are U.S. patents 5,932,759 and 5,825,882 and patent publications 2002/0128856 and 2002/0120470.

[0006] Recently, an attempt was made to embed a 32k chip beneath a person's skin with patient information that was uploaded to the chip. The significant disadvantage to this format was that it required surgery with a cost factor and the information on the chip was limited.

[0007] The unique device of this invention is not disclosed or suggested in the prior art and provides a novel solution to medical record problems.

### Summary of the Invention

[0008] This invention comprises a portable, secure, self-contained memory device that in combination with MyRECS™ copyrighted software is designed to store, update and display personal medical information. The MyRECS™ device is a small hand carried device which is connectible to the USB port of a computer or reader adapter. Access to the medical information is provided by a unique password. Medical information stored in the device cannot be deleted or changed—it can only be appended.

[0009] The MyRECS™ device stores personal information, emergency contact information along with reports, referral letters, images, medications, immunizations, medical conditions, allergies, surgeries, medical alerts, and any other pertinent information required to treat a person correctly. Each device is registered to a particular individual and the information is kept in a secure encrypted database. In an emergency, if the user is incapacitated, an 800 phone number may be used to unlock the device and view the information.

[0010] Accordingly an object of this invention is to provide a new and improved small, portable memory device for storing medical records.

[0011] Another object of this invention is to provide a new and improved portable, secure, self-contained memory device that functions with software to store, update and display personal medical information.

[0012] A further object of this invention is to provide a new and improved portable storage device for medical records which is accessed by a unique password but may be unlocked in emergencies through a customer service center.

[0013] A more specific object of this invention is to provide a new and improved small portable memory device to store, update, and accurately display personal medical information using a password which information cannot be deleted, only appended and which may be inputted by scanning, keying or downloading.

### Brief Description of Drawings

[0014] The above and other objects of this invention may be more clearly seen when viewed in conjunction with the accompanying drawings.

[0015] FIG. 1 is a schematic illustration showing aspects and features of an embodiment of the invention.

[0016] FIG. 2 illustrates an environment in which an implementation of an embodiment of the invention is used.

[0017] FIG. 3 illustrates a small portable memory device, USB extender cable, and CD-ROM in accordance with an implementation of an embodiment of the invention.

[0018] FIG. 4a, 4b and 4c each respectively illustrate a screenshot in accordance with an implementation of an embodiment of the invention.

### Detailed Description

[0019] In accordance with an implementation of a commercial embodiment of the invention, and as illustrated in FIG. 3, a small, portable, hand carried device **10** is provided that is marketed under the brand MyRECS™ by LMG Marketing and Development Corporation of Ramsey, New Jersey. The device **10** includes a USB connector at one end and a removable cap that covers the USB connector when the device **10** is not in use.

[0020] As further shown in FIG. 3, a USB extender cable **14** and a business card size CD-ROM **15** are also provided. The CD-ROM contains WIN 98 drivers for computer systems with operating systems that are not WINDOW 2000 or XP. The device **10** includes software **11** that is designed to store, compile, update and display a person's medical history. The information is kept in a secure encrypted database. In alternative embodiments, the small, portable, hand carried device can be any nonvolatile memory device such as a USB drive, memory stick, digital card and flash memory card that is read through a standard memory card reader. HIPAA compliant software may also be included.

[0021] The MyRECS™ device **10** is plugged into the USB port **16** of any PC based computer **17** and the medical history of the owner is immediately available and viewable. From the patient's perspective, the device **10** is totally portable and can hold up to 48,000 pages or 120 images, or any combination thereof. The capacity of the memory device is only limited by the size of the

USB drive. For example, it is believed that 64 MB of memory provides storage for 96,000 pages and 240 images, and 128 MB of memory provides storage for 192,000 pages and 440 images. This eliminates bulky files and folders.

[0022] From the doctor's perspective, the MyRECS™ device 10 will allow any doctor, anywhere, to have all a patient's pertinent medical history available immediately with the patient's permission. This device 10 provides information such as name, address, phone, emergency contact, primary physician contact, medical alerts, allergies, medical conditions, medications (active/inactive), immunizations, blood type, surgeries, medical history, treatments, etc.

[0023] Significant advantages to having such patient information readily available to the medical community and insurance companies may include:

[0024]       A) Increases in proper initial diagnosis of patients.

[0025]       B) Reductions in ordering of expensive medical tests.

[0026]       C) The prescribing of medications and dosages which are more precise and specific to the patient's medical condition.

[0027]       D) Reductions in unnecessary admissions to hospitals.

[0028]       E) Reductions in patient deaths and complications due to medical errors.

[0029] In summary, the MyRECS™ device 10 is a small, portable, hand carried, secure, self-contained memory device that, in combination with software stored therein, is designed to store, compile, update and display a person's medical history. Healthcare providers may access this stored medical information only when given a unique password by the patient. Medical information stored in the device 10 cannot be deleted or changed. It can only be appended. Reports show added information, which are date and time stamped, and also show the name of the party adding the information. It is believed that the device meets all legal privacy requirements.

[0030] The combination of software and hardware makes this device unique. The device 10 is self-contained with the only exception of a computer with a USB port needed to view the information stored in the database on the device 10. No website or external database is required to store and retrieve information. Information can be put on the device 10 by direct input from a keyboard into the MyRECS™ software program 11. Information can also be scanned directly to the device 10 and input from a computer on the device 10.

[0031] Information can be imported from over twenty-five file types from various file formats and saved on the device 10 which can then be read by software 11 and viewed. The device 10 thus and has the capability to integrate with various and numerous medical software applications. Information can be transferred from a file on a computer to the device 10 and read. Further, information stored on the device 10 can also be copied to a patient's medical record at a physician's office or hospital reducing the chance of human error in recreating the information. The information can be created in any word processing program or spreadsheets such as Microsoft Office or Word Perfect or any text based or graphic application and copied and pasted to the software 11 or saved as a file and copied to the device 10 or from EMR software.

[0032] The patient's medical record may also be stored in a secured secondary site that will also permit a patient to reload their information in the event their device 10 is lost, destroyed, damaged or a larger memory device 10 is required. The backup would be provided by a Data Recovery Center (DRC).

[0033] As represented in FIG. 1, the MyRECS™ device 10 is disposed in electronic communication with computer 17 via a USB port of the computer 17. A patient I.D. or pass code 21 is supplied to the software 11. Input data 22 may be scanned, keyed or downloaded into the MyRECS™ software 11. Patient information 23, allergies 24, medications 25, surgeries 26, immunizations 27, medical alerts 28, conditions 29, insurance 30, physicians 31, office visits 32, and past history 33 are typical entries to the computer 17 and associated software 11. If desired, a quick report 34 or complete report 36 may be printed or viewed on the screen of computer 17.

[0034] FIG. 2 illustrates an environment in which the device 10 may be used. The MyRECS™ device 10 both provides and receives information from the computer 17. The computer 17 may also feed information to the printer 36. Coupled to the computer 17 are a handheld computer 38, a scanner 39, a keyboard 40, data 41 and removable storage 42.

[0035] While the invention has been explained by a detailed description of certain specific embodiments, it is understood that various modifications and substitutions can be made in any of them within the scope of the appended claims, which are intended also to include equivalents of such embodiments.